



MAYOR AND COUNCIL AGENDA

NO. 12 DEPT.: Community Planning and Development Services / Legal DATE PREPARED 9/19/05
STAFF CONTACT: Deane Mellander FOR MEETING OF: 9/26/05

SUBJECT: Introduction and Adoption of ordinance granting Zoning Text Amendment Application TXT2005-00216, Revisions to Accessory Structures regulations.

RECOMMENDATION: Staff recommends that the ordinance be introduced and adopted at the meeting of September 26, 2005. If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four members of the Mayor and Council, the Council may then proceed to move to adopt the ordinance.

DISCUSSION: The Mayor and Council of Rockville have determined that the current zoning regulations governing accessory structures in residential neighborhoods are inadequate. Under the current regulations, it is possible in some instances for an accessory structure to be as large, or even larger, than the main house. In an effort to help maintain the character of the existing residential neighborhoods and minimize impacts on adjoining properties, the Mayor and Council has proposed a zoning text amendment to limit the size of accessory structures and modify their required setbacks.

Accessory structures include sheds, detached garages, swimming pools, and similar types of uses. Under the current law, the floor area of all accessory structures cannot exceed ten percent of the minimum lot area allowed in the zone. Thus, if a property is in the R-60 Zone, which has a minimum lot area of 6,000 square feet, the total floor area of all accessory structures cannot exceed 600 square feet. Further, in most zones accessory structures cannot cover more than 25 percent of the rear yard area.

As initially drafted, the first provision of the text amendment proposed to limit the size of accessory structures to a cumulative total of 600 square feet regardless of the underlying zone. This is what is currently permitted in the R-60 Zone. For comparison purposes, a typical two-car garage is about 20 by 24 feet, or about 480 square feet of floor area.

Because there are a fair number of accessory structures that exceed this proposed new limit, the original text amendment proposed a form of amortization period of ten years from the date of adoption of the text amendment. Within that timeframe, any accessory structure that was legally constructed under the former regulations will be considered a conforming use, and can be modified, repaired, or replaced in accordance with the standards it was originally approved under. At the end of the ten-year period, any accessory structures that do not meet the revised standards would become nonconforming.

A nonconforming structure is one that was legal when built, but no longer complies due to changes in the code. Such structures can remain, but if they are demolished or destroyed beyond 50 percent of their value, they cannot be replaced in kind. Any replacement must meet the current standards.

In addition to regulating the floor area of the accessory structure, the text amendment also proposes requiring additional setbacks from the property line depending on the height of the building. Currently, an accessory structure can be as high as 15 feet, height being measured to the mid-point of a gable roof. Accessory structures can be located as close as three feet to the side and rear property lines. Most two-car garages can be built with a height of 12 feet. In order to minimize potential impacts to the neighboring properties, the proposed amendment would require an accessory structure that exceeds 12 feet in height to be set back from the property lines two feet for each foot of added height above 12 feet. This would mean that a maximum height accessory structure would have to be set back 9 feet from the property lines instead of 3.

At the public hearing on July 11, 2005, the Mayor and Council directed staff to amend the proposed text amendment in the following ways:

1. Provide a sliding scale for maximum lot coverage area based on the zone;
2. Grandfather all existing legal accessory structures.

The text amendment has therefore been revised so as to limit the lot coverage to 10% in the R-40 and R-60 zones, 9% in the R-75 zone, and 8% in the R-90 zone. New language has been added to make existing structures conforming. The original language providing an amortization period has been deleted. The provision requiring additional building setbacks for heights above 12 feet remains. At the Discussion and Instruction session on September 12, 2005 the Mayor and Council agreed with the modifications proposed by staff and directed staff to prepare an ordinance for adoption.

Change in Law or Policy: Amends the current zoning regulations for accessory structures.

Boards and Commissions Review: The Planning Commission considered this text amendment at their meeting on June 28, 2005. The Commission unanimously voted to recommend approval of the text amendment as submitted. At the meeting, testimony from a citizen was received encouraging the installation of sprinklers in accessory structures.

PREPARED BY:

Deane E. Mellander

Deane Mellander, Planner III

9/21/05
Date

APPROVED BY:

R. James Nasilak

R. James Wasilak, AICP, Chief of Planning

9-21-05
Date

APPROVED BY:

Arthur D. Chambers

Arthur D. Chambers, AICP, Director, CPDS

9/21/05
Date

APPROVED BY:

Scott Ullery

Scott Ullery, City Manager

9/21/05
Date

LIST OF ATTACHMENTS:

1. Proposed ordinance for adoption.
2. Proposed text amendment with amendments.
3. Planning Commission recommendation.
4. Staff report to the Planning Commission.

Ordinance No. _____

ORDINANCE:

To grant Text Amendment
Application No. TXT2005-
000216, as amended, Mayor
and Council of Rockville,
Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, 20850, filed Text Amendment Application TXT2005-00216, for the purpose of amending the size and setback standards for accessory buildings in single-family detached residential zones; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of June 28, 2005, and recommended approval of the application as set forth in a memorandum to the Mayor and Council dated June 29, 2005; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on July 11, 2005, or as soon thereafter as it may be heard; and

WHEREAS, on July 11, 2005, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND
COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application

No. TXT2005-00216, be, and the same is hereby, granted, as amended, in the form set forth below:

Section 1. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning Ordinance” be amended by amending Section 25-1 “Definitions” to amend the definition of “Use, Accessory” to read as follows:

Use, Accessory means a use incidental to a permitted or special exception use which complies with the following conditions:

* * *

(5) If operated partially or entirely in detached structures, the gross floor area of such detached accessory structures [does] must not exceed ten (10) percent of the minimum lot area [for the zone in which the lot is located] in the R-40 and R-60 zones. The gross floor area must not exceed 9 percent of the minimum lot area in the R-75 Zone, and 8 percent of the minimum lot area in the R-90 Zone. In no event can accessory structures occupy more than 25 percent of the rear yard.

Accessory structures that were constructed under the standards in effect at the time they were erected are considered conforming and may be modified, repaired, or replaced so long as they conform to the previous development standards.

Section 2. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning Ordinance” be amended by amending Section 25-311 “Table of Development Standards” so as to add a new footnote (9) in the columns to be placed immediately after the word “Exceed” and the corresponding footnote language to read as follows:

⁹ Structures that exceed 12 feet in height must be set back an additional two feet for each additional foot of building height up to the maximum allowable height of 15 feet.

NOTE: [Brackets] indicate material deleted
Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

* * * * *

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of

Claire F. Funkhouser, CMC, City Clerk

July 15, 2005

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ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE
Revised July 15, 2005

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to insert the following new text into the zoning ordinance
(underlining indicates text to be added; [brackets] indicate text to be deleted):

Amend Section 25-1, "Definitions" as follows:

Sec. 25-1. Definitions.

* * *

Use, accessory means a use incidental to a permitted or special exception use which
complies with the following conditions:

* * *

- (5) If operated partially or entirely in detached structures, the gross floor area of such detached accessory structures [does] must not exceed ten (10) percent of the minimum lot area in the R-40 and R-60 zones. The gross floor area must not exceed 9 percent of the minimum lot area in the R-75 Zone, and 8 percent of the minimum lot area in the R-90 Zone. In no event can accessory structures occupy more than 25 percent of the rear yard.

Accessory structures that were constructed under the standards in effect at the time they were erected are considered conforming and may be modified, repaired, or replaced so long as they conform to the previous development standards

[[for the zone in which the lot is located and may in no event exceed 600 square feet of ground coverage or cover more than 25% of the rear yard, whichever is smaller. An accessory structure in existence as of (date of adoption) that complies with the provisions of the development standards for the zone immediately prior to (date of adoption) is a conforming use for a period of ten years. Such accessory structures may be modified, repaired, or replaced so long as they conform to the previous development standards. At the end of the ten-year period, any accessory structure that does not conform to the provisions herein is nonconforming and subject to the provisions of Article IV of this Chapter.]]

* * *

Amend Section 25-311, "Tables of development standards" as follows:

Sec. 25-311. Tables of development standards.

* * *

Accessory Buildings							
	Minimum Setback Requirements						
	Front	Side		Rear	Rear Yard Coverage	Maximum Height	
		Side Street Abutting	Land Abutting			Not more than stories	Not To Exceed (9)
R-E	All accessory buildings must be located in the rear yard as defined herein	30'	3'	3'	15%	1	15'
R-S		25'	3'	3'	25%	1	15'
R-150		30'	3'	3'	15%	1	15'
R-90		20'	3'	3'	25%	1	15'
R-75		20'	3'	3'	25%	1	15'
R-60		20'	3'	3'	25%	1	15'
(4)		20'	3'	3'	25%	1	15'
R-60 Qualifying Undersize Lots							
R-40		25'	3'	3'	25%	1	15'
R-40 Detached Dwelling Unit	20'	3'	3'	25%	1	15'	

[(9) Not to exceed 600 square feet of ground coverage or 25% of the rear yard, whichever is smaller.]

[(9) Structures that exceed 12 feet in height must be set back two feet for each additional foot of building height up to the maximum allowable height of 15 feet.]



City of Rockville

MEMORANDUM

June 29, 2005

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Text Amendment Application
TXT2005 - 00216; Revisions to the regulations for accessory structures .

The Planning Commission considered Text Amendment Application TXT2005-00216 at its meeting on Tuesday, June 28, 2005. The Commission received a report from the planning staff, and comments from citizens. One citizen requested the City to consider requiring sprinklers in accessory structures. Staff noted that this was a building code issue, and not directly related to the zoning standards.

The Commission concurs with the recommendations contained in the staff report. Therefore, on motion of Commissioner Holtz, seconded by Commissioner Wiener, the Commission voted to recommend approval to the Mayor and Council of Text Amendment Application TXT2005-00216. The motion passed on a vote of 5-0 with two absent.

cc: Planning Commission
Case File

**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

June 23, 2005

SUBJECT:

Text Amendment Application TXT2005-00216

Applicant: Mayor and Council of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

Planning Commission Review Date: June 28, 2005
Mayor and Council Public Hearing: July 11, 2005

REQUEST:

This application is for a Zoning Text Amendment that is intended to change the size and setback standards for accessory buildings in single-family detached residential zones.

BACKGROUND:

Recent building permit applications have revealed a trend for larger accessory buildings. Some applications have included accessory buildings footprints that are nearly as large as the footprint of the house. Since accessory buildings are meant to be subordinate to the main dwelling, this Text Amendment proposal is meant to reduce the size of a permitted accessory structure to a size that is compatible with the existing houses and neighborhoods.

DISCUSSION:

The proposed Text Amendment would limit the maximum size of an accessory building to six hundred square feet in all single-family detached residential zones. It further proposes to retain the existing maximum height of fifteen feet but proposes new setbacks regulations for structures over twelve feet in height.

Current Requirements

Accessory buildings within residential zones are currently limited to one story, fifteen feet in height and may not cover more than ten percent of the area of the smallest lot allowed in the zone. As a result, the largest accessory building allowed in the R-40 is 400 square feet, 600 square feet in the R-60 Zone, 750 square feet in the R-75 Zone, 900 square feet in the R-90 Zone, 1,500 square feet in the R-150 Zone, 2,000 square feet in the R-S Zone and 4,000 square feet in the R-E Zone. The size is further restricted by a rear yard coverage limitation of twenty-five percent in the R-40, R-60, R-75, R-90 and R-S Zones and fifteen percent in the R-150 and R-E Zones.

Assessment

The aerial photos of the City were referenced in an effort to determine if there was any pattern or high concentrations of accessory buildings and what sizes appeared to be common. The Twinbrook and East Rockville neighborhoods have the highest concentration of accessory buildings, in a variety of sizes. Except for the Rose Hill, Rose Hill Falls, King Farm and Fallsgrove, the developments that took place from around 1965 to the present have very few accessory buildings and most are modestly sized.

Prior to modern subdivision development, properties were larger and homes had a cellar or basement and often had outbuildings. Post World War II development in the area led to the "cookie cutter" type of subdivisions that were quickly erected to serve returning veterans and provide housing for governmental agencies in the Washington area. The homes were often erected on concrete slabs or crawl spaces and did not contain an outbuilding of any type. As time passed, the later generation of houses often included a basement and/or a carport. Later development almost always included a basement and an attached carport or garage.

If the Twinbrook, Twinbrook Forest and Hungerford similarly styled houses are compared, the need for an accessory building becomes clear based on whether the house has a basement or a carport. In the Twinbrook development there are few houses with basements and few with carports but many accessory buildings in a variety of sizes. In the Twinbrook Forest subdivision, there are some basements with most of the properties containing carports but fewer and smaller accessory buildings. In the Hungerford development, most of the houses have basements and garages and there are few and smaller yet accessory buildings. It is therefore clear that the need for an accessory building is tied to the need for vehicle coverage and storage even if you just compare older neighborhoods to newer ones.

Recommendation

It is recommended that the maximum size of an accessory building be limited to four hundred square feet in the R-40 Zone and six hundred square feet in all other single-family residential zones. Since most families own two cars and because there is always a need for storage space, six hundred square feet seems to be a reasonable limitation on the size of an accessory structure. This is based on the idea that most two-car garages measure twenty feet wide by twenty-four feet deep, for a total of four hundred eighty square feet. If six feet were added onto the depth of the structure for work or storage space, for the full width, it would bring the total square feet of the building to six hundred.

Approximately eighteen years ago, the size limitations for accessory buildings was looked at and the Zoning Ordinance was changed to reduce the accessory building size to ten percent of the smallest lot allowed in the zone rather than ten percent of overall individual lot. Because so few large accessory buildings exist in the R-75, R-90, R-150, R-S and R-E Zones, it is not anticipated that allowing the maximum accessory building to be six hundred square feet will make any additional existing accessory structures nonconforming.

The one thing that may make additional structures nonconforming is that proposed limitation that any accessory building that exceeds twelve feet in height would have to be setback an additional two feet for every foot it exceeds twelve feet up to a setback of ten feet for accessory buildings reaching the maximum height of fifteen feet. Because accessory structures are deemed uninhabitable they have traditionally been allowed to come to within three feet of the side or rear property line and required to be placed in the rear yard, which is behind the rear wall of the house or any projection from the house, such as an eave, porch or deck. The three-foot setback allows for maintenance around the structure. Increasing the setback for taller structures will provide for a greater separation between the property line and the higher massing of the taller structure. It is not clear how many structures would be made nonconforming by increasing the setback. For the last ten or eleven years, the City has had a computer program in place for permit issuance. Within the program, data is entered that indicates the setbacks proposed. Prior to that time, there is no easy way to assemble the data.

Staff, therefore, recommends approval of the reduced maximum size for accessory buildings as well as the increased setbacks for accessory buildings that exceed twelve feet in height.

NOTIFICATION:

A letter was sent to all of the civic associations and homeowners association notifying them of the proposed Text Amendment. A copy of the Text Amendment was included with the letter.